Dear Steve Leonardis:

RE: City of Monte Sereno’s 6th Cycle (2023-2031) Adopted Housing Element

Thank you for submitting the City of Monte Sereno’s (City) housing element that was adopted January 31, 2023 and received for review on February 1, 2023. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from South Bay YIMBY pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses some statutory requirements described in HCD’s January 9, 2022 review; however, additional revisions are necessary to substantially comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. During the housing element revision process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government’s website and to email a link to all individuals and organizations that have previously requested notices relating to the local government’s housing element at least seven days before submitting to HCD.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (February 15, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Otherwise, the local government’s
housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor’s Office of Planning and Research at: https://www.opr.ca.gov/planning/general-plan/guidelines.html.

HCD appreciates the commitment and cooperation provided throughout the housing element update and review. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Brandon Yung, of our staff, at brandon.yung@hcd.ca.gov.

Sincerely,

[Signature]
Paul McDougall
Senior Program Manager

Enclosure
APPENDIX
CITY OF MONTE SERENO

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at https://www.hcd.ca.gov/planning-and-community-development/hcd-memos. Among other resources, the housing element section contains HCD's latest technical assistance tool, Building Blocks for Effective Housing Elements (Building Blocks), available at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

As noted in the prior review, the element should evaluate programs geared toward promoting housing variety and affordability, housing mobility and inclusion into and throughout Monte Sereno. Most notably, the element should acknowledge the depth and importance of facilitating multifamily housing within City boundaries and should evaluate the effectiveness of multifamily zoning and programs geared toward promoting housing variety, mobility, and affordability. In response, the element continues to report on permitted accessory dwelling units and notes an alternative project was approved instead of multifamily zoning. However, the element should clearly evaluate whether zoning was successful in promoting multifamily development, including affordability and if not, examine the lack of effectiveness to formulate an appropriate programmatic response. In addition, the element should analyze the progress and effectiveness of programs geared toward promoting housing variety (e.g., multifamily), mobility and affordability, as follows:

- **Program HE-2.2 (Shared Housing)**: The element must still discuss whether the City proactively contacted agencies and if not, incorporate the lack of outreach into new programs.

- **Program HE-2.3 (ADU Monitoring)**: This Program had a specific trigger to revise multifamily zoning and densities if ADUs for all income were not constructed in specified time intervals. In response, the element indicates ADUs were constructed but should also discuss whether ADUs were permitted for all income groups and if not, discuss why multifamily zoning, including appropriate densities were not established. Then, the element should incorporate lessons learned in new programs.

- **Program HE-2.5 (Multifamily Zoning)**: As noted above, the element should evaluate the lack of effectiveness in establishing multifamily, including promoting affordability through outreach to developers of housing affordable to lower income and special need households.
• **Program HE-4.1 (Special Needs):** The element still must discuss attempts, success or effectiveness of outreach with non-profit developers and revise new programs as appropriate.

• **Program HE-4.2 (Senior Housing):** The element should evaluate the program’s appropriateness and determine whether it should be modified or continued into the current planning period.

In addition, the element still must provide an evaluation of the cumulative effectiveness of past goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness) and revise programs as appropriate.

**B. Housing Needs, Resources, and Constraints**

1. **Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2…shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)**

   **Local Data and Knowledge and Other Relevant Factors:** The element now discusses past redlining in the broader Santa Clara County but should incorporate local data and knowledge and other relevant factors unique to the City. For example, the element could incorporate planning documents such as locally adopted ordinances, other elements of the general plan, infrastructure assessments, and mobility assessments to fully describe the impacts on fair housing patterns and trends. In addition, the element must discuss other relevant factors such as historical land use (zoning, initiatives, growth control that impacted socio-economic patterns).

   **Contributing Factors:** Based upon a complete analysis, the element must re-assess and prioritize contributing factors to fair housing issues and add or modify programs as appropriate.

2. **Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)**

   Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)

   **Extremely Low-income (ELI) Households:** The element now identifies the projected housing need for ELI households but must still analyze the existing needs of these households. Please see HCD’s prior review for additional information.
Special Needs: While the element now includes some brief discussion of potential solutions to address special housing needs, it should still discuss trends and characteristics of housing needs to better formulate strategies and modify programs as appropriate.

3. An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality’s housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3)).4

Adequate Sites and Accessory Dwelling Units (ADU): As noted in the prior review, the element may demonstrate adequate sites to accommodate the regional housing need allocation (RHNA) entirely with ADUs, however, given the reliance on one strategy, it must include robust and commensurate analysis or utilize alternative strategies. The element still proposes to accommodate essentially the entire RHNA for all income groups with ADUs and as a result, still must include robust and commensurate analysis, as follows:

- **Calculation of Past Trends:** As noted in the prior review, given the reliance on ADUs, the element should utilize averages based on all years since 2018. In response, the element continues to assume 225 ADUs over the planning period. These assumptions far exceed trends since 2018 and even exceed more recent trends since 2020 (approximately 12 to 15 ADUs per year). The element must rescale ADU assumptions in line with recent trends. Please see HCD’s prior review for additional information.
- **Affordability:** The element generally was not revised to address this finding. In addition, the element should address to comments submitted on this and prior review. Please see HCD’s prior review for additional information.
- **Other Relevant Factors:** The element now includes information on the availability of ADUs for rent; stating that 93 percent of past ADUs were made available for rent. As a result, the element should incorporate this information into ADU assumptions for the planning period.

If the above analyses necessitate identifying sites to accommodate the RHNA, including by income group, the identification of sites and analysis must meet all requirements pursuant to Government Code section 65583.2, including but not limited to parcel listing, map of identified sites, identified sites and AFFH, environmental and other constraints, infrastructure, size of sites, nonvacant sites, calculation of realistic residential capacity and appropriate zoning to accommodate housing for lower-income households. For more information, please see the Building Blocks at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks.

Electronic Sites Inventory: Although the City has submitted electronic sites inventory as described in the prior review, if any changes occur, the City should submit revisions as part of any future re-adopt or submittal. Please see HCD’s housing element
Zoning for a Variety of Housing Types:

- **Multifamily:** While the element was updated to include a program to “analyze” opportunities for multifamily zoning, it still must identify and analyze significant and realistic opportunities for multifamily development in the planning period as part of this update. The identification and analysis should address sites, any known constraints or impediments, parcel size, appropriateness of densities and methodology for calculating residential capacity. Based on the outcomes of this analysis, the element must include programs to make sites available with appropriate zoning, allowable densities (e.g., 20 units per acre) and development standards to encourage and facilitate multifamily development at maximum allowable densities.

- **Emergency Shelters:** HCD’s prior review found the element should clarify that by-right is without discretionary action and add a discussion of acreage, parcel sizes, reuse and redevelopment opportunities and proximity to transportation and services as well as evaluate development standards. In response, the element now states only one site is available; a school site. The element must still clarify whether emergency shelters are permitted without discretionary action and should demonstrate how the one school site could accommodate at least one emergency shelter or identify other zones and capacity. In addition, the element must still analyze development standards, including parking requirements and add or modify programs to address any constraints.

Please be aware Chapter 654, Statues of 2022 (AB 2339), adds specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. Future submittals of the housing element may need to address these statutory requirements. For additional information and timing requirements, please see HCD’s memo at https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf.

- **By-right Permanent Supportive Housing:** The element now includes a Program S (Allow Single Room Occupancy) to permit supportive housing by-right in the Public zoning district. However, by-right permanent supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. Future efforts to establish multifamily zoning should comply with these requirements.

- **Accessory Dwelling Units:** Based on a cursory review, the City’s ADU ordinance does not comply with ADU law. The element must include a program to amend the ADU ordinance and comply with ADU law. HCD will send additional information upon a complete review of the ordinance under separate cover.
• **Manufactured Housing:** The element now clarifies that manufactured homes are permitted in the same manner as conventional homes and a specific standard will be added to confirm manufactured homes will be reviewed consistent with state law when the City updates its objective design standards. The element should modify programs to reflect this confirmation in the update of objective design standards.

4. **An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)**

**Land Use Controls:** HCD’s prior review generally found the element must evaluate all development standards and land use controls, impacts of a predominant large lot land use pattern and compliance with Government Code sections 65852.21 and 66411.7 (SB 9). However, the element must still be revised, as follows:

• **Development Standards and Land Use Controls:** The element was not revised to address this requirement. Please see HCD’s prior review for additional information.

• **Lack of a Variety of Lot Sizes:** The element now notes that a majority of the City is large lots over two acres and as a result, should include programs to provide a variety of lot sizes – beyond complying with State law. Programs should be specific and not limited to reviewing options.

• **Government Code sections 65852.21 and 66411.7 (SB 9):** The element now includes Program E (SB 9 Regulations) to review regulations. However, the Program should specifically commit to amend zoning and comply with state law.

**Processing and Permit Procedures:** The element generally was not revised to address HCD’s prior finding. Please see HCD’s prior review for additional information.

**Streamlining Provisions:** HCD’s prior review found the element should clarify whether the City has procedures consistent with streamlining procedures pursuant to Government Code section 65913.4 (SB 35) and include programs as appropriate. In response, the element now concludes the City is in compliance with RHNA and is not subject to SB 35. However, these conditions may change and the element should add a program with specific commitment to establish a written procedure to comply with Government Code section 65913.4 by a specified date.

**Constraints on Housing for Persons with Disabilities:** The element must still include an analysis of potential constraints on housing for persons with disabilities, as follows:
• **Reasonable Accommodation**: The element indicates the City has a reasonable accommodation procedure that involves a “hearing” (p. C-10). The element should clarify if this is a public hearing and if so, evaluate the impacts as a potential constraint on housing for persons with disabilities. In addition, the element now lists several decision-making criteria but should also evaluate some of those criteria as constraints on housing for persons with disabilities. For example, decision-making criteria such as demonstrating a special need, benefit, compatibility with surrounding uses, alternative accommodations and that a household with a disability is truly a household appear to be a constraint. The element should evaluate these decision-making criteria and add or modify programs as appropriate.

• **Group Homes for Seven or More Persons**: The element now explains group homes for seven or more persons are allowed in all residential zones, however, also mentions these uses are limited to licensed homes. As a result, the element should include a program to amend zoning and remove the licensing requirement.

**C. Housing Programs**

1. **Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)**

To have a beneficial impact in the planning period and achieve the goals and objectives of the housing element, programs must have discrete timing early in the planning period (e.g., at least annually or by 2025) and specific commitment to housing outcomes (e.g., refrain from language such as “explore”, “develop”, “consider”). Examples of programs to be revised include:

• **Program E (Review SB9 Regulations)**: As noted in the prior review, the Program should go beyond reviewing and amending as needed. The Program should at least clearly commit to comply with law and could consider additional modification that further enhance the state law.

• **Program G (Develop Incentives)**: The updated Program does not respond to the previous finding. Especially given the lack of progress in the previous planning periods, this Program must specifically, annually reach out to affordable developers and apply for funding in addition to “at the request of the developer”. Additionally, the Program should include quantified objectives and should be further modified based on the outcomes of complete analyses as noted in Findings A and B. Please see HCD’s prior review for additional information.
• **Program I (Accessory Dwelling Units):** The updated Program does not respond to the previous finding. The Program should clearly commit to removing restrictive requirements and specifically revise the ADU ordinance in compliance with ADU law. In addition, the Program now only commits to survey affordability and use but should survey affordability, use and production. Further, the Program only commits to take alternative action at a mid-cycle review of the housing element if construction goals or affordability are not met. Alternative action should be taken annually within six months of an annual review and should be triggered by production, affordability and availability or use.

2. **Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.** (Gov. Code, § 65583, subd. (c)(1).)

As noted in Finding B3, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

In addition, the element now includes Program Q (Analyze Multifamily Housing) to analyze sites and analyze the potential application of SB 10. However, this Program generally does not commit to any meaningful outcomes in the planning period, especially when considering the past lack of effectiveness in promoting multifamily and affordability. As noted in the prior review, this Program should be modified based on the outcomes of a complete analysis as described throughout this review. The Program must at least commit to make sites and appropriate zoning (e.g., 20 units per acre) available with development standards to encourage and facilitate multifamily development at maximum densities and may need to address specific requirements related to a shortfall of adequate sites, including rezoning sizes to meet by-right requirements.

3. **The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households.** (Gov. Code, § 65583, subd. (c)(2).)

The element was not revised to address this finding. In addition, programs must be revised based on the outcomes of a complete analysis as described in Findings A and B.
4. Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)

As noted in Findings B4, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

In addition, as noted in Finding B4, the City lacks a variety of minimum lot sizes and densities and the element should add programs to create a variety of lot sizes, increased densities, and modified development standards to facilitate maximum densities.

6. Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)

As noted in Finding B1, the element requires revision to complete an assessment of fair housing. Depending upon the results of a complete analysis, the City must add or modify goals and actions. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement, new housing choices and affordability in higher opportunity or higher income areas, place-based strategies for community revitalization and displacement protection.

In addition, promoting housing mobility removes barriers to higher opportunity areas and strategically enhances access to housing choices and affordability. Among other factors, the City is entirely the highest resource category in access opportunity, wholly a concentrated area of affluence and predominantly consists of households with the highest median income, a stark contrast to the rest of the region. As a result, the element should include a significant and robust suite of actions (not limited to the RHNA) to promote housing mobility and increasing housing choices and affordability throughout the City.

D. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)
The element does not respond to the previous finding. While the element includes quantified objectives for new construction by income level, it currently targets no objectives for rehabilitation and conservation and should be revised accordingly. For example, quantified objectives could incorporate numerical targets for ADU amnesty or anticipated outcomes from Programs U (Infrastructure Capital Improvements), V (Energy Conservation), W (Water Conservation) and X (Fair Housing Enforcement).

E. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)

HCD’s prior review found the City must employ additional methods for public outreach efforts, particularly including lower-income and special needs households. In response, the element now describes how the City partnered with the West Valley Community Services (WVSC) but should also provide discussion about the comments and input and how that input was incorporated into the housing element. In addition, the City should continue to employ a variety of methods and target outreach to additional organizations that represent lower-income and special needs households. Finally, HCD received comments with many meaningful suggestions related to ADU production assumptions, ADU surveys, segregation and integration, and other issues related to zoning and affirmatively furthering fair housing. HCD encourages the City to consider these comments.